

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Grace Tallon

Serial No.: 10/665,753

Filed: September 19, 2003

For: Combination Package for Artificial Fingernails

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF GRACE TALLON

GRACE TALLON hereby declares and states:

1. I am the inventor of the above-identified patent application for a Combination Package for Artificial Fingernails.
2. This declaration is being made to traverse the Examiner's contention that the arrangement of the artificial nails in a position substantially perpendicular to the bottom of the package is merely design choice.
3. The present invention was developed as a solution to a problem which was not being addressed at the time of the invention.

4. The problems listed in the Background of the Invention section of the specification were problems that I perceived with the existing artificial nail packages. There was not, to my knowledge, a recognized need to arrange the nails so that they are perpendicular to the front surface. The fact that this problem was not perceived is evidenced by the lack of artificial nail packages having the perpendicular arrangement of the artificial nails at the time of my invention.

5. Thus the difference between the present invention is the prior art is the arrangement of the nails so that they are perpendicular to the front surface so that a potential buyer can readily examine not the top surface, but the shape of the artificial nails in the package.

6. U.S. Patent No. 5,791,482 ("Murphy") discloses a typical artificial nail package in which the top of the nail is shown through the front of the package. According to *Murphy*, the user may place a finger under the package to determine what the artificial nail looks like on top of the user's finger. However, none of the nails are arranged perpendicular to the bottom of the package.

7. The thickness of a package can be important for retail sales because a thinner package allow more units of a product to be stocked in one row on a shelf. Thus, a manufacturer would not make a package thicker than necessary. Accordingly, there is no incentive to arrange the nails perpendicular to the front of the package unless there is some advantage to doing so. The fact that holders with slits exist, such as those disclosed in U.S. Patent No. 4,282,975 ("Ovadia"), is not reason enough to include them in the package disclosed by *Murphy* absent some additional reason to do so.

8. As mentioned above, I identified a reason to so arrange the fingernails so that a user could determine from the front of the package whether the curve and/or arch height of the nail are compatible with the user's fingers. This arrangement of nails in a package for sale was not known prior to my invention and is not merely a design choice.

9. In view of the above, the phrase "said means for retaining being configured to hold said artificial fingernails in a position substantially perpendicular to said bottom surface such that one of the longitudinal ends of each of said at least two of said artificial fingernails faces said front of said package", as recited in independent claim 1, is not taught or suggest by *Murphy* in view of *Ovadia*.

10. I declare that all statements made herein of my own knowledge are true; that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of this patent application and any patent resulting therefrom.

Date: 6/12/08

By: 
Grace Tallon